

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 05-C-1067

v.

APPROXIMATELY \$5,145 IN U.S. CURRENCY,

Defendant.

ORDER GRANTING THE PLAINTIFF'S MOTION TO COMPEL

On October 7, 2005, the government filed a verified complaint against the defendant property, which was seized from the person and residence of Alford Carter ("Carter") on May 5, 2005. Carter filed a verified claim objecting to the forfeiture action, stating that the defendant property was legally obtained and not related to the illegal exchange of controlled substances. Currently pending is the government's motion to compel Carter's response to discovery. According to the government, Carter's attorney was served with its interrogatories and request for production of documents on February 28, 2006. (Wesley Aff. ¶ 2). As of the date of its motion, approximately one month after the 30-day response deadline set forth in Federal Rule of Civil Procedure 33(b)(3) had expired, Carter had not yet responded to the discovery. In addition, Carter did not respond to the government's motion to compel, which is now ready for resolution.

The information sought in the government's interrogatories and requests for production inquire about Carter's use of the defendant property and Carter's net worth. The government contends that the information will show that the defendant property was furnished in exchange for a controlled

substance, constituted proceeds traceable to the purchase of a controlled substance, or was used to facilitate a violation of the Controlled Substances Act. Those issues will be at the heart of the upcoming court trial, which is scheduled to commence on June 28, 2006. Carter's failure to respond to the government's discovery therefore presents a risk that the government's ability to prepare for trial will be hindered and there has been no showing that his delay is justified. Accordingly, the motion to compel will be granted. Any further delay on the part of Carter will result in sanctions, which can include the dismissal of Carter's claim to the property the government seeks to forfeit.

For all reasons discussed, the court now enters the following orders on the government's motion to compel:

IT IS THEREFORE ORDERED that the government's motion to compel discovery is **granted**.

IT IS FURTHER ORDERED that the claimant, Alford Carter, respond to the government's first set of interrogatories and request for production of documents within **10 days** of the date of this order.

Dated at Milwaukee, Wisconsin this 25th day of May, 2006.

s/AARON E. GOODSTEIN
United States Magistrate Judge